



46 CFR Parts 502, 503, 520, 530, 535, 540, 550, 555, and 560

[Docket No. FMC-2023-0009]

RIN 3072-AC96

Update of Existing FMC User Fees

AGENCY: Federal Maritime Commission

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On March 21, 2023, the Federal Maritime Commission (Commission) published a direct final rule, which notified the public of our intent to update its current user fees and amend the relevant regulations to reflect these updates, pursuant to Office of Management and Budget (OMB) Circular A-25. The direct final rule stated that it would increase some fees to reflect increases in salaries of employees assigned to certain fee-generating services. For one service, the rule would lower fees because less-senior employees are assigned to the fee-generating activity. The rule will go into effect as scheduled.

DATES: The effective date of the direct final rule published at 88 FR 16894 on March 21, 2023, is confirmed as June 5, 2023.

FOR FURTHER INFORMATION CONTACT: William Cody, Secretary; Phone: (202) 523-5908; Email: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION: The Commission received four comments in response to the direct final rule (DFR) titled “Update of Existing FMC User Fees.” Three of the four comments received did not include information relevant to this rulemaking. One comment addressed the substance of the DFR. None of the comments received were significant adverse comments nor were they within the scope of the rulemaking.

In the comment from Atlantic Pacific Tariffs, Inc. (AP Tariffs), AP Tariffs states that it opposes the proposed increase in fees. However, AP Tariffs’s comment is not a significant

adverse comment. AP Tariffs takes issue with proposed increases in fees for new U.S.-based company license applications and argues this would exacerbate the troubling trend of predominantly foreign companies obtaining Commission registrations. The DFR cannot address this concern because the fees are the same for all applicants regardless of whether an applicant is U.S.-based or foreign. Thus, the commenter seems to be asking for different fees for U.S.-based versus foreign entities to prioritize the interests of U.S.-based companies. Because this rule does not address substantive changes to the underlying regulations and who should be subject to the fee, this argument is outside the scope of the DFR.

AP Tariffs also argues that increasing the fees would create a financial burden for aspiring American companies seeking to enter the maritime industry, would be counterproductive to fostering domestic entrepreneurship, and would exacerbate the trend of foreign entities obtaining Commission registrations at the expense of U.S. based companies. AP Tariffs argues that the Commission should reconsider any fee increases for new U.S.-based companies and prioritize the interests of U.S. based companies. All of these comments are outside the scope of the User Fees rule because they do not challenge the methodology of calculating the fees, which is the focus of this rule.

Finally, AP Tariffs argues that the Commission should incrementally increase fees as the agency does in the Inflation Adjustment of Civil Monetary Penalties rule. The Commission already increases these fees incrementally by issuing biennial updates, consistent with the guidance in OMB Circular A-25.

In the DFR, the Commission noted that “the scope of the rulemaking is limited to the amounts charged for Commission services, and any substantive changes to the underlying regulations governing those services or related requirements would be outside this scope.

Accordingly, comments on the underlying regulations and related requirements will not be considered adverse. Filed comments that are not adverse may be considered for modifications to the Commission's regulations at a future date.” 88 FR 16894, 16896, (Mar. 21, 2023). As such, the Commission will take into consideration the changes mentioned in this comment when considering future substantive changes to the underlying regulations.

For the foregoing reasons, none of the comments received are considered significant adverse comments. The DFR will therefore go into effect as scheduled.

By the Commission.

William Cody
Secretary

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